



Montana Environmental Trust Group, LLC
Trustee of the Montana Environmental Custodial Trust
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January 20, 2012

CERTIFIED MAIL--Return Receipt Requested

Betsy Burns
RCRA Project Officer
EPA Region VIII
Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626

RE: Consent Decree Civil Action No. CV 98-3-H-CCL East Helena Site
Work Performed in October 2011; Progress Report

Dear Betsy:

On May 5, 1998, ASARCO and the United States Environmental Protection Agency ("EPA") entered into a Consent Decree (the "Decree") to further the objectives of the Resource Conservation and Recovery Act ("RCRA") and the Clean Water Act ("CWA"). On December 9, 2009, the Montana Environmental Trust Group, LLC, Trustee of the Montana Environmental Custodial Trust (the "Custodial Trust") was established as part of the larger ASARCO bankruptcy settlement agreement to provide operational, remediation and revitalization activities at the Montana Sites, which include the East Helena Smelter. The United States and the State of Montana are the two designated beneficiaries of the Custodial Trust.

Pursuant to the Settlement Agreement, a motion to reopen the Decree and substitute the Custodial Trust for ASARCO was granted by the US Federal District Court in January 2010. As of the date of this report, EPA, DOJ and the Custodial Trust have finalized a First Modification to the Decree that conforms to the terms of the Settlement Agreement. The First Modification to the Decree, as approved by the parties, was filed with the Court on January 17, 2012. As with this report, future progress reports prescribed by the Decree, as so amended, will be submitted to EPA by the Custodial Trust.

Section XII of the Decree (Reporting: Corrective Action) requires submittal of certified monthly progress reports to EPA to describe the actions taken to achieve compliance with the Decree. The following describes those activities that have occurred or are related to activities that took place during October 2011. As to any actions performed by ASARCO, the Custodial Trust's predecessor-in-interest, the descriptions are based on information and belief only.

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SECTION 1. DESCRIPTION OF ACTIVITIES FOR OCTOBER 2011

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
1. Draft Phase II RFI	Hydrometrics/ GSI	The Custodial Trust provided the draft Phase II RFI to the Beneficiaries on May 20 th for their review and comment.	No Data Submittal	No problems encountered.	90%
2. 2011 Field Sampling and Analysis Plan (FSAP)	Hydrometrics	The Custodial Trust is working with Gary Burnham on revised grazing plans associated with the access agreement required to drill and sample three wells to define the leading edge of the selenium plume located on Burnham's property.	Continuous and ongoing updates to the Site Database.	No problems encountered.	100% of 3 rd Quarter
3. Groundwater and Surface Water Monitoring	Hydrometrics	The fourth quarter sampling is scheduled to be performed in November.	No Data Submittal	No problems encountered.	100%
4. Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	EPA requested formal procedures be developed to review and verify all data entered into the database. On June 2 nd , Hydrometrics Contract Modification #3 was executed to revise and update the DMP and addend the QAPP.	Revised DMP and QAPP were completed by August 12 th	No problems encountered.	85%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
5. Corrective Measures Study (CMS)	CH2M-Hill	<ol style="list-style-type: none"> 1. The Custodial Trust, the EPA and CH2M-Hill reviewed the draft CMS on October 6th. A second meeting was conducted on October 17th 2. The Custodial Trust finalized and issued the Request for Qualifications (RFQ) to seven firms to: (i) develop and maintain a numeric groundwater flow model, (ii) develop a fate and transport model; and (iii) provide hydrogeological services to support the CMS. Responses to the RFQ are due by November 15th. 3. DJ&A completed surveying and aerial mapping of Custodial Trust properties. 	<p>CH2M Hill submitted draft outline of five year plan on October 18th.</p> <p>The Custodial Trust submitted a draft to EPA of the RFQ for supporting the CMS on October 6th. The draft was approved and issued to seven (7) firms on October 20th.</p> <p>DJ&A submitted all surveying, aerial mapping and orthophotography deliverables pursuant to their contract with the Custodial Trust.</p>	No problems encountered.	75%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
6. South Plant Hydraulic Control (SPHC)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ol style="list-style-type: none"> 1. Pioneer Technical Services (PTS) and Morrison-Maierle Inc. (MMI) began fieldwork to support the wetlands delineation for natural resource permitting associated with the SPHC on October 4th. The work was completed on October 30th. 2. Applied Geomorphology Inc. (AGI) began assembling health and safety documentation for the Prickly Pear Creek habitat and geomorphological assessment required for the SPHC. Field work for the assessment began on October 28th. 3. Hydrometrics submitted the technical memorandum "Upper Lake Drawdown Test Planning and Logistics" on October 4th. 4. The Custodial Trust hosted three on site briefings and tours to review the SPHC interim measure on October 11th, 12th, and 14th. Representatives from MBAC, L&C County, Reis Surveyors, City of East Helena, MDEQ, MT FWP, L&C County Board of Health and WQPD, LEAP, Prickly Pear Land Trust, Lake Helena Watershed Group, EPA, Governor's Office, DNRC, MDOJ, L&C County Floodplain Administration, and ACOE participated in the tours. 5. The Custodial Trust and Hydrometrics installed additional transducers in wells to be evaluated as part of the Upper Lake drawdown test on October 14th. 	<p>The technical memorandum "Upper Lake Drawdown Test Planning and Logistics" was submitted by Hydrometrics on October 4th.</p> <p>Work plans for the Prickly Pear Creek habitat and geomorphological assessment were submitted and approved by the Custodial Trust.</p>	No problems encountered.	50%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
South Plant Hydraulic Control (SPHC) (cont.)		<p>6. Authorization was granted to CH2M-Hill on October 27th to proceed with concept, planning studies and other technical services required to support the SPHC interim measure.</p> <p>7. The Custodial Trust received an opinion from counsel (Garlington, Lohn, & Robinson) regarding SPHC impacts to water rights related to Wilson Ditch.</p>			
7. Baseline Ecological Risk Assessment (BERA)	Gradient	No BERA activities were performed during this reporting period.	No Data Submittal	No problems encountered.	90%
8. Human Health Risk Assessment (HHRA)	Exponent/ CH2M-Hill	Work on the HHRA continued through this reporting period.	No Data Submittal	No problems encountered.	85%
9. Consent Decree Modification	Custodial Trust/DOJ	<p>The Custodial Trust worked with EPA, USDOJ, and DJ&A to address ownership of parcel 5, referenced in Paragraph 38 and Exhibit C.</p> <p>The DOJ prepared further final revisions to the first modification to the 1998 Consent Decree, incorporation references to the CAMU trust.</p>	Revised Exhibit C.	No problems encountered.	95%
10. Groundwater Technical Working Group (TWG)-Groundwater Model Work Plan	Custodial Trust/EPA/ MDEQ/MDOJ	The Custodial Trust finalized and issued the Request for Qualifications (RFQ) to seven firms to: (i) develop and maintain a numeric groundwater flow model, (ii) develop a fate and transport model; and (iii) provide hydrogeological services to support the CMS. Responses to the RFQ are due by November 15 th .	The RFQ was issued to seven (7) firms on October 20 th .	No problems encountered.	- %

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
11. Regulatory Compliance	Custodial Trust	On October 4 th , following EPA approval, eighteen (18) roll off bins containing hazardous waste were placed in the CAMU #2 under the supervision of Hydrometrics. A tarp was used to temporarily cover the breach in the cell liner which was eventually repaired by Northwest Linings on October 28 th .	No Data Submittal	No problems encountered.	On Going

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
12. Health and Safety	Custodial Trust	<p>Slag crushing dust suppression.</p> <p>Provided respirator fit tests to Northwest Linings personnel prior to performing work at the CAMU #2.</p> <p>The Custodial Trust continued working with the Site Health & Safety Specialist on options for relocating or retrofitting the Custodial Trust administrative offices to address health and safety issues created by the buildings location within a restriction zone. Pending a final determination on the administrative offices, personnel coming on or off exclusion zones are utilizing the bathhouse prior to entering the administrative offices.</p> <p>Revising the Site-wide Health and Safety Plan to address exclusion zones, proper OSHA training, and PPE.</p> <p>The Custodial Trust received CH2M-Hill's Health and Safety plan and confirmed plans to require key staff to complete the 40-hour OSHA Hazwopper certification before returning to the site.</p>	<p>OSHA certification requirements were received for Applied Geomorphology on October 19th.</p> <p>CH2M-Hill's Health and Safety plan was received on October 20th.</p>	<p>On October 12th East Helena personnel identified dust control issues associated with the slag crushing process. Operations were suspended until the contractor could demonstrate the proper dust suppression equipment was operating as required. Operations resumed on October 15th.</p>	On Going

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Health and Safety (cont)	Custodial Trust	Resolved issues with OSHA requirements for Applied Geomorphology personnel conducting SPHC fieldwork. Compiled a list of vendors, suppliers and contractors who require regular access to the site in order to develop required Health and Safety protocols.			
13. Site Security	Custodial Trust	The Custodial Trust and EPA were notified that cattle belonging to Diehl were sighted on Custodial Trust Property near the Kleffner Ranch. Dennis Young from the Kleffner Ranch assisted in moving the cattle from Custodial Trust property. On October 12 th , East Helena personnel disabled the former manager's house alarm systems at the request of EPA to facilitate a soil sampling program conducted by the USDA.	No Data Submittal	Cattle present on Custodial Trust property.	Ongoing

14. Water Treatment Plant	Custodial Trust	<p>From October 9th to October 14th , the Custodial Trust operated the HDS water treatment plant and treated an estimated 400,000 gallons of storm water stored on site.</p> <p>On October 26th, the Custodial Trust operated the HDS water treatment plant to treat approximately 70,000 gallons of storm water in order to deplete the storage tanks prior to beginning the SPHC aquifer test.</p> <p>Personnel completed site-wide winter checks for all active facilities to ensure proper operations and to avoid freezing and other cold weather issues.</p>	No Data Submittal		Ongoing
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Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
15. Plant Operations	Custodial Trust	<p>On October 6th, East Helena personnel completed servicing of all on site mobile equipment.</p> <p>East Helena personnel cleaned the bathhouse and repaired a leak in the water line to allow visitors and other personnel to utilize the decontamination facilities.</p>	No Data Submittal		Ongoing
16. Personnel and Office Operations	Custodial Trust	<p>The Custodial Trust finalized plans to retain the services of Garret Thompson through A2Z Temporary Staffing.</p> <p>The Custodial Trust and EPA worked with Pam Norris to streamline her role and responsibilities at the site.</p> <p>On October 20th, TS Consulting's Rob Foster's hours were reduced due to lower activity levels during upcoming winter months.</p>	No Data Submittal		Ongoing

17. Financial Affairs	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust received a price proposal from Trek, Inc. of Bozeman, MT to provide on-going project control services using Primavera. 2. The Custodial Trust submitted a request for EPA approval of a budget increase for EH cleanup account Cost Centers ILR (Legal Affairs) and IIS (Trustee Fees) on October 14th. EPA approved this request on October 25th. 3. The Custodial Trust began working with Galusha on developing information required to support the preliminary budget submittals. 4. The Custodial Trust worked with CH2M-Hill, Galusha and Hydrometrics to develop detailed cost estimates to support the preparation of the 2012 preliminary budget submittals. 	<p>Request submitted and approved by EPA to budget increases for account Cost Centers ILR and IIS.</p> <p>CH2M-Hill submitted cost estimates for the 2012 preliminary budget for the East Helena Cleanup Account.</p>		Ongoing
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18. Property Use/ Development	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust determined the Dobler and Foster growing leases must be corrected and finalized before they can be submitted to the beneficiaries for approval. 2. The Custodial Trust identified the need for a formal agreement with Dennis Young with respect to use of the agricultural property that abuts the Kleffner Ranch. 3. The Custodial Trust continued to work with CTA on the EH redevelopment planning studies. 4. On October 11, H&H Metals contractor completed mobilization to the site and began crushing slag. Twelve (12) covered rail cars with approximately 1,118 tons of slag had been loaded by October 27th and began being transported to the Teck facility in Trail, B.C. 5. The Custodial Trust hosted a tour of the parcels requested by the City and County on October 11th. Attendees included representatives from the County, City, MBAC, and Reis Surveying. 	No Data Submittal	<p>On October 12th East Helena personnel identified dust control issues associated with the slag crushing process. Operations were suspended until the contractor could demonstrate the proper dust suppression equipment was operating as required. Operations resumed on October 15th.</p>	Ongoing
19. Community and Local Meetings	Custodial Trust	<ol style="list-style-type: none"> 1. Beneficiary Meeting on October 21st. 2. East Helena Technical meeting on October 13th. 3. SPHC interim measures briefings and Site Tours October, 11th, 12th, and 14th. 	No Data Submittal	No Problems Encountered	Ongoing

Section 2. Activities Scheduled for November 2011

Task	Performing Entity	Description
Field Sampling and Analysis Plan (FSAP)	Hydrometrics	Begin fourth quarter field sampling events, which include surface water and water levels from select monitoring wells.
Corrective Measures Study	CH2M-Hill	Meetings with Custodial Trust to discuss 5 year plan.
South Plant Hydraulic Control	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ul style="list-style-type: none"> Shutdown of Upper Lake diversion structure. Upper Lake Drawdown test. Prickly Pear Creek habitat and geomorphological assessment fieldwork.
Property Use/Development	East Helena	H&H Metals to continue slag crushing.
Monthly inspection of six temporary cap areas.	TS Consulting	Monthly inspections of the temporary cap areas will continue in November 2011.
CAMU Inspections	TS Consulting/Custodial Trust	Routine inspections of CAMU #1 (monthly) and CAMU #2 (weekly) will continue in November 2011.
Water Treatment Plant	Custodial Trust	No plans to operate water treatment plant in November 2011.
Financial Affairs	Custodial Trust	Submittal to EPA the preliminary 2012 East Helena Cleanup Account budget on November 1 st .
LEAP & ICs Meeting	L&C County/EPA	Meeting scheduled on November 2 nd .
Beneficiaries Meeting	EPA/MDEQ/MDOJ/Custodial Trust	Monthly beneficiaries meeting.
Redevelopment Planning	EPA/Custodial Trust/CTA	Meeting to review status of redevelopment planning activities scheduled on November 3 rd .
Meeting with EH Mayor	Custodial Trust/EH Mayor/MBAC	Meeting scheduled on November 3 rd .

Section 3. Describe and estimate the percentage of studies completed.

No projects or studies were completed in October 2011. A complete listing of projects completed in 2011 will be reported in the January 2012 Progress Report.

Section 4. Describe Actions being taken to address problems.

There were no actions required to address problems associated with the Decree.

Section 5. Identify changes in key personnel during the period.

Garret Thompson's services were retained through A2Z Temporary Staffing to provide technical and logistical support for the Custodial Trust.

Section 6. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

The Custodial Trust received funds for Environmental Actions earmarked for site clean-up in connection with the ASARCO bankruptcy settlement. The Custodial Trust deposited the funds in a segregated East Helena Clean-up account and is investing and managing the funds in accordance with the provisions of the Settlement Agreement. Issues related to the CAMU trust are stilling being resolved between the beneficiaries and ASARCO.

Please do not hesitate to contact me if you have any questions.

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President

cc: Denise Kirkpatrick - MDEQ
Randy Breeden - EPA 8
Chuck Figur - EPA 8

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

"I certify under penalty of law that this document and all attachments, were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President